

REMARKS

The application has been amended and is believed to be in condition for allowance.

Claims 1-10 were examined.

Claims 1, 5, and 10 have been amended as indicated above to clarify the invention.

Claims 11-17 have been added by way of this amendment and find support in the application as originally filed.

The allowance of claims 2-10 is noted with appreciation.

Claim 1 was rejected as anticipated by HOLZER DE 3520146.

Applicant respectfully disagrees.

It is a well-settled axiom of patent law that in order to anticipate a claim, a reference must teach each and every element of that claim. Each and every element of a claim must either be expressly or inherently described in a prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

Thus, if every element of the claim is not described or suggested by the reference, the claim cannot be rejected under 35 U.S.C. § 102(b) as being anticipated by the prior art. Further, the elements described or suggested in the reference must be arranged as required by the claim, although the

terminology need not be identical. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

In view of the above amendments to Claim 1, applicant submits that HOLZER fails to describe or suggest each and every element of Claim 1. Thus, applicant respectfully submits that the rejection of Claim 1 under 35 U.S.C. § 102(b) is improper.

More specifically, HOLZER teaches a temperature-dependent actuator for controlling water temperature to protect against the discharge of too hot of water from a wash basin, shower, or bidet. HOLZER fails to at least teach or suggest a "portable fluid heating tool capable of heating a flow of water to a temperature suitable for killing vegetation" in combination with "a temperature controlled pressure regulating valve" as recited in Claim 1 and as indicated as being allowable in the Office Action.

Thus, HOLZER fails to teach or suggest each and every element of the embodiment claimed in Claim 1. Accordingly, applicant respectfully submits that the rejection of Claim 1 under 35 U.S.C. § 102(b) is improper, and therefore respectfully requests that the rejection be withdrawn.

Reconsideration and allowance of claim 1 are respectfully requested.

New Claims 11-17 have been added to further point out and distinctly claim the novel aspects of the claimed embodiments of the present invention. Applicant submits that the prior art,

alone or in combination, does not teach or suggest applicant's claimed embodiments of the present invention as recited in Claims 11-17. Therefore, applicant submits that new Claims 11-17 are allowable over the prior art.

Claim 11 is believed allowable at least for depending from an allowable claim.

Claim 12, and its dependent claims, are believed allowable in that the prior art does not teach or suggest a portable tool heating a flow of water to a desired temperature for killing vegetation comprising the combination of:

- (a) a fluid inlet for connection to a source of water;
- (b) a fluid heating assembly connected to the inlet for heating a fluid entering the fluid inlet;
- (c) an outlet coupled in fluid communication with the fluid heating assembly for delivering heated fluid supplied by the fluid heating assembly to vegetation to kill the vegetation;
- (d) a temperature controlled pressure regulating valve disposed between the inlet and the outlet; and
- (e) a flow restriction device capable of regulating the flow of heated fluid delivered to the outlet, wherein the flow restriction device is interfaced with the temperature controlled pressure regulating valve such that heating or cooling of the temperature controlled pressure regulating valve results in the flow restriction device correspondingly opening or closing to allow an increase or a decrease in the flow of heated fluid

leaving the outlet to thereby control the temperature of the heated fluid leaving the outlet.

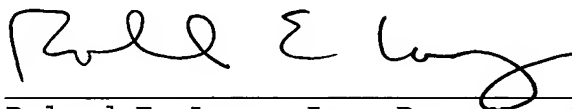
Allowance of claim 12, and its dependent claims, is respectfully requested.

In view of the foregoing remarks and amendments, applicant respectfully submits that the present application is in condition for allowance. Reconsideration and reexamination of the application, as amended, and allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact applicant's undersigned attorney at the number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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